

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES JULY 30, 2002**

CALL TO ORDER

Mayor Kennedy called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Chang, Tate and Mayor Kennedy
Absent: Council Members Carr and Sellers

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on the agenda. No comments were offered.

NEW BUSINESS

1) PLANNING FOR FALL 2002 FUND RAISING EVENT

Council members met with citizens interested in the Day Worker Committee to discuss possible fund raising activities to be used for a day worker facility. Fund raising activities discussed were a barbeque, carwash, and/or solicitation for donations.

Action: *It was the consensus of the group to pursue the barbeque fund raising event.*

ADJOURNMENT

Mayor Kennedy adjourned the special meeting at 7:55 p.m.

MINUTES PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES AUGUST 2, 2002**

CALL TO ORDER

The meeting was called to order at 3:30 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

The meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

1. HARD HAT TOUR OF THE COMMUNITY AND CULTURAL CENTER

The City Council conducted tours of the Community and Cultural Center with citizens and the business community.

Action: No action taken.

ADJOURNMENT

Mayor Kennedy adjourned the special meeting at 4:15 p.m.

MINUTES PREPARED BY

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES AUGUST 7, 2002**

CALL TO ORDER

Mayor Kennedy called the meeting to order at 7:00 P.m.

ROLL CALL ATTENDANCE

Present: Council Members Chang, Tate and Mayor Kennedy
Absent: Council Members Carr and Sellers

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on the agenda. No comments were offered.

NEW BUSINESS

1) PLANNING FOR FALL 2002 FUND RAISING EVEN

The City Council met with citizens to discuss possible fund raising activities to assist with the Dayworker issue. Discussed were a barbeque, carwash, and/or solicitation for donation fund raising activities.

Action: *It was the consensus of the group to pursue the barbeque fund raising activity.*

ADJOURNMENT

Mayor Kennedy adjourned the special meeting at 7:55 p.m.

MINUTES PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - JULY 31, 2002**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 6:05 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairman Kennedy

Late: Council/Agency Member Chang (arrived at 6:08 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council Action

INTERVIEWS

1. INTERVIEW TO FILL ONE VACANCY ON THE PARKS AND RECREATION COMMISSION

City Clerk Torrez presented the staff report

The City Council interviewed Robert Graham and Marilyn Librers to fill a vacancy on the Parks and Recreation Commission.

Action: **Appointment** of an applicant to be conducted as part of agenda item 30.

OTHER BUSINESS:

2. MAYOR AND CITY COUNCIL OFFICE SPACE

City Clerk Torrez presented the staff report. She indicated that Chris Noll, Noll and Tam Architects, was present to answer questions that Council may have.

Mr. Noll addressed the Council and explained the modifications as proposed in Alternative 3A.

Council Member Tate stated that it was his belief that at the June 2002 meeting, the Council reached consensus on Alternative 3 scheme. He indicated that he did not want to impact staff's use of the

conference room in order to accommodate two modular desks. He felt that the Council needs to set the example and cut unnecessary costs. He did not see a need to add additional Council work stations as three Council members have indicated their willingness to share an office space.

Mayor Pro Tempore Carr concurred with the comments expressed by Council Member Tate. He stated that the majority of the Council members agreed to proceed with Scheme 3 and that additional staff time was required to come up with an alternative scheme. He felt that the Council would be sending a mixed message when it is asking staff to make budgetary reductions. He noted that the proposed expenditure of \$120,000 would equate to approximately one-third of the fiscal year 2002-03 deficit. He felt that the Council should make a statement and not proceed with the reconfiguration of city hall.

Council Member Chang agreed that \$120,000 is a significant budgetary commitment for Council office space. However, she would like to see Mayor Kennedy move out of the west conference room and into an office.

Council Member Sellers agreed that the concept of providing office space for Council members comes at a bad economic time and that he did not want to impact staff space needs. He did not believe that the Council could justify the expenditure at this time. He recommended that existing furniture be used for the Mayor's office and that Council members use this office when not in use by the Mayor. He requested shelf space be provided to Council members as long as it does not require significant expenditures.

Council Member Chang inquired whether the Mayor could be afforded an office, retaining existing office space while saving on furniture costs?

Mayor Kennedy felt that with the Recreation Division's move to the community and cultural center, there would be less need for the El Toro Conference room. Therefore, he recommended alternative Scheme 3A that would provide him with an office space, two enclosed Council office spaces and two modular desk units that would be a part of the El Toro Conference Room. This alternative would provide each council member with a desk, utilizing existing space.

Council Member Sellers recommended that office space accommodate a deputy city attorney and a document imaging work station. He further recommended that minimum expenditures be authorized.

Council Member Tate noted that one council member indicated that they would like to spend more time at city hall. He recommended that a second desk be included in the Mayor's office to accommodate a council member's use of a desk. He felt that having three council work stations in an office may be viewed as a conflict.

Mayor Kennedy felt that the Council is being a penny wise and a pound foolish. He said that Scheme 3 would widen Ms. Spier's office space and make it functional for two offices. He recommended office space reconfiguration in order to accommodate office space for each Council member.

Mr. Noll indicated that he could review schemes to minimize construction costs.

Council Member Chang stated that she wanted every Council member to have their own office space. She

recommended that Council office space be accommodated when the budget improves.

Mayor Pro Tempore Carr stated that he has a hard time supporting the previous action taken in June and in the authorization of the \$100,000+ expenditure when the City has delayed important studies due to economic times. He felt that the deputy city attorney, document imaging work station and one council office space should be accommodated. He did not believe that it would be prudent for the Council to spend money for additional office space at this time. It was his belief that a significant statement would be made if the Council authorized the office space expenditures when other projects are being placed on hold due to budgetary constraints. He felt that costs could be kept minimal if existing space and furniture are utilized.

Council Member Chang concurred with Mayor Pro Tempore Carr's comments. She stated that the purpose of this exercise was to provide an office for the Mayor. If the City can save \$100,000 she would support the action.

Mayor Kennedy stated that he would agree to defer further discussion of office space until such time that the recreation division moves to the new facility.

Action: *It was the consensus of the City Council to **not move forward** with any office space schemes at this time.*

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

Action: *The Council **deferred** discussion of the Closed Session items to the conclusion of the agenda.*

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Quinn Kennett led the Pledge of Allegiance.

RECOGNITION

Mayor Kennedy presented a Certificate of Appreciation to Dan Blanton, Fly Fishing Hall of Fame Inductee.

Mayor Kennedy presented a Certificate of Appreciation to Quinn Kennett in recognition of his years of service as a Youth Advisory Committee Member

Recreation Supervisor Lugger stated the Recreation Division's appreciation of donors, sponsors and supporters of the City's third Annual Art Ala Carte. She thanked the City Council for supporting recreation

activities and events of this nature.

CITY MANAGER'S REPORT

Acting City Manager Ashcraft stated that he did not have a report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Council Member Tate requested that item 9 be pulled and Mayor Kennedy requested that item 12 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **approved** Consent Calendar Items 3-8, 10, 11 and 13 as follows:*

3. **MINUTES OF JOINT SPECIAL CITY COUNCIL AND SPECIAL PLANNING COMMISSION WORKSHOP - JULY 10, 2002**

Action: **Approved** the Minutes as Written.

4. **MINUTES OF JOINT SPECIAL CITY COUNCIL AND DOWNTOWN TASK FORCE MEETING - JULY 13, 2002**

Action: **Approved** the Minutes as Written.

5. **RESPONSE TO GRAND JURY'S FINAL REPORT, EXAMINATION OF AUDITS AND FINANCIAL REPORTS**

Action: **Authorized** Mayor Kennedy to Sign Letter Responding to the 2001-2002 Santa Clara County Grand Jury's Final Report, Examination of Audits and Financial Reports.

6. **APPROVE PURCHASE OF A MINI-DUMP TRASH HAULER TRAILER**

Actions: 1) **Approved** Carry-Over of Funds Budgeted for The Purchase in FY 2001-2002 to FY 2002-2003 Budget; and 2) **Approved** the Purchase \$5,421.27 For a Mini-Dump Carson Trailer,

Model DT10.

7. **FINAL MAP ACCEPTANCE FOR QUAIL CREEK PHASE I (TRACT 9427)**
Actions: 1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.
8. **FINAL MAP ACCEPTANCE FOR COYOTE CREEK (TRACT 9396)**
Actions: 1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.
10. **AGREEMENT FOR ANNUAL TREE PRUNING**
Actions: 1) **Approved** Agreement for Annual Tree Pruning With Shimada Landscape, Inc. in the Amount of \$63,500.00; and 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City.
11. **AWARD FOR SIDEWALK, CURB & GUTTER REPLACEMENT PROJECT**
Actions: 1) **Approved** Carry-Over of funds Budgeted for This Project in FY 2001-2002 to FY 2002-2003 Budget; and 2) **Awarded** a Purchase Agreement by Authorizing the Issuance of a Purchase Order to Osuna Concrete for the Construction of the Sidewalk, Curb and Gutter Replacement Project in the Amount of \$47,460.
13. **APPROVAL OF LEASE OF NITRATE REMOVAL PLANT**
Action: 1) **Appropriated** \$30,000 From Unappropriated Water Fund Balance to Fund a Temporary Nitrate Removal Plant at the Burnett Well Site; and 2) **Approved** Issuance of a Purchase Order to Ionics in the Amount of \$30,000 for the Lease of a Temporary Nitrate Removal Plant.
9. **APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR THE SEWER LIFT STATION B IMPROVEMENT PROJECT**

Council Member Tate requested that a staff report be presented in order to understand why a problem was not anticipated.

Assistant Public Works Director Bjarke presented the scope of work for the project. He indicated that a lift station is being upgraded in the Holiday Lakes area. Staff proposes to relocate a force main on an easement to make maintenance easier. He indicated that staff was at the surveying point of the project when staff was approached by a property owner who indicated that the lift station was on an easement located on his property. The owner produced an agreement that was signed in 1997 that stipulates his agreement to adjust the easement boundary in return for installation of landscaping and improvements to make the lift station aesthetically pleasing for future development. He said that when staff started the design last year, staff was not aware of this agreement. The contract before the Council accommodates

landscaping. He indicated that all but \$2,000 of the original contract has been spent.

Council Member Tate felt that in tough economic times that \$20,000 to accommodate a neighbor was a lot of money.

Action: *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute a Professional Services Contract With Freitas and Freitas Engineers in the Amount of \$20,100 for Design Services to Complete the Sewer Lift Station B Improvement Project.*

12. APPROVAL OF PURCHASE ORDER FOR DEMOLITION OF TWO STRUCTURES LOCATED AT 665 BARRETT AVENUE AND 16627 CORY LANE FOR BUTTERFIELD BOULEVARD EXTENSION, PHASE IV PROJECT

Mayor Kennedy noted that a statement in the staff report indicates that the City would be demolishing two structures. He inquired if it would be possible to relocate and rehabilitate these homes rather demolish them?

Deputy Director of Public Works Bjarke indicated that the oldest of the two structures located on Barrett Avenue is dilapidated. Due to its age, staff conducted a historical survey. The Survey returned with a finding that there was no significant impact with its demolition.

Director of Business Assistance and Housing Services Toy indicated that staff looked at the possibility of relocating the second structure, a duplex located on Cory Lane. He said that in looking at the required on and off site improvements and the Measure P process, it was not cost effective to move the duplex and make it work on a piece of property.

Mayor Kennedy felt that there was some value in preserving housing units. He inquired if staff looked at any Redevelopment Agency property or any City lots available that the Redevelopment Agency can take the lead in relocating the duplex unit?

Mr. Toy responded that the only City owned property is located on Watsonville Road in which staff is looking at a possible project with South County Housing. Another City owned property is located on West Third Street. He noted that at one point, the City considered a Below Market Rate unit on the property. However, it was determined that it was an inappropriate use for the property at that time. Therefore, the City does not have surplus property for the duplex.

Acting City Manager Ashcraft informed the City Council that before staff bid the demolition of the duplex unit, staff asked contractors if they could make economic use of the duplex unit. All contractors responded that they could not as this structure was already relocated once. It was indicated that retrofitting a second time would be difficult.

Council Member Sellers inquired why one would need a Measure P allocation to move a building to a property as it is an existing housing structure?

Mr. Toy stated that under the current Measure P system, allotments run with property. Therefore, you cannot take an allocation with you.

Mayor Kennedy inquired whether investigating preservation alternatives for the duplex unit slow down the Butterfield Boulevard project?

Acting City Manager Ashcraft responded that a critical path of the Butterfield project is now awaiting right of way acquisition. He said that the project is designed and that there are four pieces of right of ways to acquire. He stated that the earliest the City can break ground on the project is six months from now. He said that staff could ask the contractor who bid the demolition of this project to see if they would extend their bid. Assuming that the contractor could extend the bid by 60 days in order to explore alternative courses of actions to move the structure within 90 to 120 days, he did not believe that this time would impact the construction of Butterfield Boulevard. However, any delays beyond this time would affect Butterfield Boulevard construction.

Mayor Kennedy stated that he would like to take time to see if the duplex unit can be recycled but would support the demolition of the older structure.

Council Member Sellers shared Mayor Kennedy's concern but felt that the City may not have viable options that would not delay Butterfield Boulevard construction.

Mr. Toy indicated that staff could explore whether other property owners their interest in relocating and rehabilitating the duplex unit. He said that a problem would be trying to find a piece of property big enough to site the duplex and meet zoning standards.

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Purchase Order to Randazzo Enterprises, Inc. For the Demolition of the Structure Located at 665 Barrett Avenue at an Amount not to exceed \$21,726 for Butterfield Boulevard Extension, Phase IV Project. Staff to investigate the feasibility of relocating and rehabilitating the duplex unit located at 16627 Cory Lane.*

Redevelopment Agency Action

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Redevelopment Agency unanimously (5-0) **Approved** Consent Calendar Items 14 and 15 as follows:*

14. PRELIMINARY JUNE 2002 FINANCE & INVESTMENT REPORT

Actions: **Accepted** and **Filed** Report.

15. AGREEMENT FOR OUTSIDE LEGAL COUNSEL (RICHARDS, WATSON & GERSHON)

Action: **Authorized** Executive Director to Execute Consultant Agreement for Legal Services in FY

2002-2003 with Richards, Watson & Gershon in the Amount of \$55,000.

City Council and Redevelopment Agency Action

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Commission unanimously (5-0) **approved** Consent Calendar Items 16 and 17 as follows:*

16. MINUTES OF JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING - JULY 10, 2002

Action: ***Approved** the Minutes as Written.*

17. MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING - JULY 17, 2002

Action: ***Approved** the Minutes as Written.*

City Council Action

PUBLIC HEARINGS:

18. DEVELOPMENT AGREEMENT AMENDMENT DAA 00-12: EAST DUNNE - GREWAL - Ordinance No. 1576, New Series

Council Member Chang recused herself from item 18 as she resides adjacent to this project.

Director of Community Development Bischoff presented the staff report. He indicated that a portion of the old Hill Road closest to Dunne Avenue would be eliminated. He indicated that this portion of Hill Road is used to access the existing nursery.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0-1 vote with Council Member Chang abstaining, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1576, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Introduced** Ordinance No. 1576, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1542, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNE-GREWAL TO ALLOW FOR A NINE-MONTH EXTENSION OF TIME (APN 728-11-026) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: Chang; ABSENT: None.*

Council Member Chang resumed her seat on the dais.

19. ANNEXATION AND ZONING AMENDMENT APPLICATIONS, ZA-02-02: COCHRANE-BORELLO II – Ordinance No. 1577, New Series

Director of Community Development Bischoff presented the staff report. He addressed Council Member Sellers question as to how two peninsulas of properties were created.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** a Negative Declaration for this project.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Zoning Amendment Ordinance No. 1577, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1577, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PREZONING 16 ACRES, LOCATED ON THE EAST SIDE OF PEET ROAD - BETWEEN COCHRANE ROAD AND HALF ROAD FROM COUNTY A-20S TO CITY R-1(20,000) (APNs 728-34-006 & 007) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

20. DEVELOPMENT AGREEMENT AMENDMENT DAA 01-04: CENTRAL-CENTRAL PARK - Ordinance No. 1578, New Series

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1578, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1578, New Series, by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1464, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-18: CENTRAL-CENTRAL PARK TO ALLOW FOR A TWO-MONTH EXTENSION OF TIME (APN 726-27-105) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

21. DEVELOPMENT AGREEMENT AMENDMENT DAA 01-07: COCHRANE-MISSION VIEW - Ordinance No. 1579

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1579, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1579, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR PHASES V & VI OF THE MISSION RANCH PROJECT, APPLICATIONS MP-00-21 & MP-01-03: MISSION VIEW-DIVIDEND (APNs 728-32-001, 002, 003 & 728-33-001) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Acting City Manager Ashcraft requested that agenda item 23 be considered at this time. He indicated that staff is talking to one or more members of the public regarding item 22.

OTHER BUSINESS: (Continued)

23. SENIOR ADVISORY COMMITTEE RESOLUTION AND RECOMMENDATIONS REGARDING NUTRITION SITE PROGRAM

Recreation Manager Spier presented the staff report. She indicated that it would cost approximately \$100,000 to retain the nutrition center at the Friendly Room for expansion and upgrade equipment, including the floor. She indicated that it would also cost approximately \$100,000 to move the nutrition center to the indoor recreation center, but further assessment would be required to determine the exact cost. She indicated that it has been requested that 75-85 individuals be accommodated for the nutrition program and that the indoor recreation facility multi purpose room could accommodate 125 individuals.

Mayor Pro Tempore Carr noted that the senior nutrition program is a County Department of Social Services program. He inquired if there is any suggestion that the County would provide funding for the exclusive use of items that they lock up, including exclusive use of the facility?

Ms. Spier informed the Council that the County has exclusive use of the Friendly Inn kitchen. In order to continue this service, the City would need to agree to exclusive use. She clarified that the nutrition services are provided by Catholic Charities who contracts via County funding. She indicated that both entities were strong with the point of exclusive use due to budgetary constraints. She said that staff is anticipating a senior wing at the community recreation center. She indicated that 2,880 square feet would be dedicated for the multi purpose room. Therefore, an impact would not exist. However, if you take away

300 square feet from another programming space, then it would have an impact should there be an expansion to the kitchen.

Council Member Tate said that the requested 320 square feet sounds like the addition of a room because the first kitchen would be dedicated to the nutrition program. He inquired whether there was a need for a second kitchen and whether the services could be part of another room where there is a heating facility for food (any options)?

Ms. Spier said that staff was hoping that it could combine spaces in order to share the same counter space and items with the County. She said that the City could consider separate kitchens as an option or incorporate the kitchen into another space.

Council Member Chang asked what would happen to the Friendly Inn should the nutrition center move to the community recreation center?

Ms. Spier indicated that in January, the Council directed all senior programming be moved to the indoor recreation center, thus the \$20.7 million budget. If the City chose not to move the nutrition program, the City would be looking at a \$100,000 minimum budget to renovate the kitchen at the Friendly Inn. Staff has not looked at what would happen to the Friendly Inn in the long term, noting that there are possibilities such as renovating the kitchen to be used by other groups. She noted that funds have not been allocated toward the Friendly Inn at this time.

Mayor Kennedy said that in reading the letter from Marilyn Gadway, he gets the impression that there are two different groups of seniors: the ones that would use the nutrition site, and those that would use the senior center. He felt that there may be some logic in having separate facilities at separate locations. He inquired if there would be a problem in leaving the nutrition program at the Friendly Inn?

Ms. Spier said that the Council reviewed four other possibilities for the senior nutrition program were evaluated such as the Grange, the hall located across from the Community and Cultural Center, the Friendly Inn and the Indoor Recreation Center. She said that the senior nutrition program and the Senior Advisory Committee indicated that they were not interested in the Grange nor the parish hall. When asked if they would like to relocate to the indoor recreation center or remain at the Friendly Inn, the response was split. She said that the Parks and Recreation Commission expressed concern about dividing the senior community.

Council Member Chang noted that the City of Danville has its nutrition program away from the main senior center. She asked if this separation was a trend?

Ms. Spier responded that it depends on a city's philosophy and funding. She said that the Council needs to look at this as an opportunity as to the type of program it would like to see at the indoor recreation center. She said that there are cities that have senior wings next to a recreation center and have found it to be viable.

Mayor Kennedy asked if the County and Catholic Charities would allow other senior groups the use of the kitchen facility should the City combine the two kitchens at the new indoor recreation center?

Ms. Spier responded that the County is willing to put in some funding for walk in freezers, mixers and kitchen equipment but would not be willing to share these items. She indicated that the County had \$10,000 allocated to do some upgrades to the Friendly Inn two years ago. In staff's discussion with the County, it was requested that city staff identify where the senior nutrition program would be located before they would discuss funding upgrades. She said that the nutrition program would need 320 square feet, noting that this amount of space has not been dedicated as part of the indoor recreation center. If approved at the indoor recreation center, this square footage would need to be taken away from other programming or the budget would need to be increased by \$130,000. If retained at the Friendly Inn, she indicated that the City would need to provide funding as well.

Mayor Pro Tempore Carr said that Ms. Gadway's letter states that the Senior Advisory Commission is recommending that the City not build an exclusive kitchen at the new indoor recreation center for this program and that the City continue the program at the Friendly Inn.

Ms. Spier clarified that the Senior Advisory Committee recommends that the Council leave the nutrition site at the Friendly Inn, recognizing that in order to renovate the Friendly Inn, the City would decrease its capital cost by this amount from the indoor recreation center. The Parks and Recreation Commission voted against this recommendation and wanted to make the indoor recreation center a cohesive senior wing, including the nutrition site. The Senior Advisory Committee came up with the resolution, recognizing that the Parks and Recreation Commission wanted to have an inclusive senior center wing. She said that when the Council adopted the budget of \$20.7 million, the Council included the nutrition program as part of the programming space within the indoor recreation center. She stated that she is bringing forward the Senior Advisory Committee's concern that the square footage allocated in the indoor recreation center is enough for a dedicated kitchen but that there may be issues if the kitchen is made available to other groups.

Mayor Kennedy inquired as to staff's perspective on this issue.

Ms. Spier felt that the Senior Advisory Commission performed due diligence, investigating how other cities handled their nutrition sites. They found that in order to be effective and have cost recovery, they need to lock up their items. She felt that this curtails the programming possibilities. If the City is to move the nutrition program, she said that accommodations would need to be made for other program partners if there is to be a complete senior wing. She said that another component to this is the Community and Cultural Center that can accommodate larger functions.

Mayor Kennedy felt that if there is to be a joint effort with the County that the City work out an agreement to share the common facilities.

Council Member Chang said that if a nutrition program is installed at the new indoor recreation center, the nutrition program would tie up the multi purpose room from 8 a.m. to 2 p.m. She inquired if the nutrition program would interfere with other programs?

Ms. Spier indicated that the multipurpose room is needed to support the nutrition site. She said that at one point, the rooms were going to be used for programming such as fitness programs. However, in looking at the programming spaces, staff felt that there were other spaces that could be used between 8 a.m. and

2 p.m. Staff was hoping that this area would be dedicated for seniors. After 2 p.m. other user groups or seniors that want to continue with other programs can do so. If the nutrition program remains at the Friendly Inn, the space at the new center would need to be revisited. She indicated that there is a possibility of some savings or reallocating programming space.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Sellers said that a main goal of the Council in developing a co senior and youth center was to create interactivity between these two groups. He agreed that there are two senior groups that use the senior center. A goal was to break down some of the differences and encourage those seniors who would not otherwise partake in recreation activities or other activities. He felt that the long term goal is serving the needs of the community and putting the two groups in one facility to better serve them.

Mayor Kennedy concurred with the comments expressed by Council Member Sellers. He felt that the Council needs to take a firm position on sharing facilities when it makes sense to do so and not be dictated by the County/Catholic Charities, particularly when it comes to sharing facilities and paying for additional facilities as a matter of convenience to them.

Mayor Pro Tempore Carr inquired whether the \$130,000 is to be shifted from within the existing budget for the indoor recreation center or would the \$130,000 be coming from another project? He felt that the funding source needs to be taken into consideration.

Ms. Spier said that the \$130,000 is not funded and that staff is looking for Council direction. She said that this issue can be revisited when staff looks at programming spaces at time of design.

Council Member Tate wanted to know why a full kitchen facility needs to be used to heat up food for the bridge club and others. He felt that there was some way to provide this service in the program rooms. He felt that there may be funding in the existing budget.

Mayor Pro Tempore Carr noted that the community and culture center will have a full commercial kitchen and that groups need to be encouraged to use the kitchen facilities there instead of using the indoor recreation center. He stated that he has apprehensions about how this program works in connection with the County. He inquired if the City funds a portion of the nutrition program?

Ms. Spier responded that the County fully funds the nutrition program but that the City pays for the utilities and space, including maintenance.

Mayor Pro Tempore Carr agreed that the County's operation of the nutrition program is a significant service to the seniors in Morgan Hill. He did not want to discourage this service simply because they are asking the City to build the center for their exclusive use. However, he did not know how to judge how equitable the service being given by the County is worth building a brand new kitchen for an exclusive use from 8 a.m. to 2 p.m.

Mayor Kennedy asked if the County receives pass through funds from the State? Ms. Spier responded that it was her belief that Catholic Charities has funds coming from County on Aging from State funds.

However, she would have to explore where all the County's budgetary allocations come from.

Action: **No Action Taken**

22. ASSESSMENT OF HAZARDOUS VEGETATION MANAGEMENT PROGRAM CHARGES -- Resolution No. 5605

Assistant to the City Manager Dile presented the staff report. She informed the City Council that Assistant Fire Marshall Judy Saunders was in attendance to answer questions that the Council may have regarding the program.

Council Member Chang inquired if she could vote on this item if she owns property within 500 feet from affected property owners?

City Attorney Leichter stated that it was her recommendation that Council Member Chang not participate in discussion.

Council Member Chang recused herself from agenda item 22.

Council Member Tate recommended that an article be included in City Visions to advise individuals how they can suggest properties be added to the Hazardous Vegetation Management Program.

Council Member Sellers stated that he would support Council Member Tate's recommendation only if the City concurrently reminds individuals that it is an economic burden on those who are reported. He recommended that individuals encourage neighbors to rectify the problem on their own.

Mayor Kennedy said that he heard a complaint regarding the letter sent to property owners in terms of how it was worded. He stated that it was his recollection that the Council had discussion on this issue last year. The County agreed to make future letters more user friendly.

Ms. Dile informed the Council that property owners are notified twice about the program. These notifications are conducted by the County Fire Marshal's office. In response to concerns expressed over the last couple of years, the Fire Marshal's office initiated a door hanger program. She said that the letter was a new step for the City, noting that City went above and beyond what is required in terms of notifying property owners. She said that staff has received feedback from residents indicating that the letter can be improved. She said that staff would be working on improving the letter with the Fire Marshal's office.

Mayor Kennedy noted that the letter sent to property owners does not indicate that if abatement is completed, there would be very little danger that a lien would be placed on property.

Mayor Kennedy opened the public hearing.

Ue Ching Ow, 6588 Ashfield Court, San Jose, indicated that he owns property adjacent to the Morgan Hill Inn. He said that he had his property manager disc his property after receiving notice of weed abatement in April. His property manager completed weed abatement on the entire parcel in June 2002. He was

informed that there was an assessment of \$1,700 on his property because the Fire Marshal's office felt that the property was not properly abated. If this is the case, he felt that property owners should be notified and advised of proper weed abatement procedures and not be charged the \$1,700. He informed the Council that the same individual abated his property the past couple of years. If improperly abated in the past, he should have been notified at that time.

Eugene Margherita, owner of a 3-acre parcel located on Railroad Avenue, indicated that he has been discing his property twice a year, as required. He was notified yesterday that he would be assessed \$995 for a 30-foot strip of land around the perimeter of the 3-acres. He stated that he has receipts showing that he abated the land once and was getting ready to disc the property a second time. In speaking with the Fire Marshal this evening, she has photographs showing weeds prior to discing and after discing. The Fire Marshal advised him that the property may not have been abated according to their standards. He requested that property owners be advised as to proper weed abatement so that he can have his contractor go back and re disc. He felt that the Fire Marshal's rates were high. He requested to know how many citizens are having this done to them. He stated that he is a responsible person and cares about fire hazards but that he does not like being "ripped off."

Michael Ward, 130 Nob Hill Terrace, indicated that he is being assessed \$350 per lot of the 9 lots that he owns. He stated that he was not opposed to the plan. However, he expressed concern that he was not informed about the program, noting that he acquired the property 1.5 years ago. He indicated that the letter sent was received by the former property owner. He concurred that the easement was abated but not his property. Yet, his property is being assessed for work not performed.

No further comments being offered, the public hearing was closed.

Assistant Fire Marshal Saunders stated that the Weed Abatement program is under the purview of the County Fire Marshal's Office. She stated that she was not able to bring the information with her to address Mr. Ow's concern. She said that she would have to go back and look at the records and the data base to determine what happened. She explained that inspectors take photographs before and after each abatement to prove that work has been completed.

Council Member Sellers inquired as to the recourse a property owner has when there is a disagreement about property abatement?

Ms. Saunders responded that if a mistake is made on the part of her office, a property owner would not be charged. If the abatement was valid, a property owner would be charged. She indicated that timing is the issue because if a property is removed from the list, the County would not be able to secure cost recovery on the work performed. She informed the Council that an assessment list is due to the County Assessor's office by August 10. Any properties that are assessed can be removed/cleared from tax roles but that properties cannot be added to the tax roles after the August 10 date. She indicated that she was not sure about the appeal process and that she would have to consult with County counsel, but that it was her belief that this meeting is a property owner's opportunity to appeal to the Council.

Mayor Pro Tempore Carr inquired what would happen should the Council leave properties on the assessment list, and an agreement is not reached between the property owner and the Fire Marshal's office?

Would the Council have the opportunity to request that the property be removed from the list?

Ms. Saunders said that she has not taken the process to this level to respond to Mayor Pro Tempore Carr's question and that this was a legal question. She was not sure what authority the City Council has in this particular case.

Mayor Pro Tempore Carr inquired as to the disparity in discing cost (e.g., \$375 versus \$1,750).

Ms. Saunders responded that the cost passed from the contractor to the Fire Marshal's office is multiplied by 150% for administration costs, thus, one of the reasons the charge is high. She indicated that contractors do not perform the same discing procedures as that of the County. The County's contractor double discs and has proven to be a much safer means of fire protection. She indicated that all of South County has a special problem with fire because wind and fires move fast. She stated that in Morgan Hill, the Fire Marshal's office has been requested to perform 50- foot fire breaks and not the minimum 35 foot fire breaks, the minimum required elsewhere. She reiterated that the County's contractors perform services different from a property owner's contractor, thus a reason for cost disparity. She said that in some instances, double discing occurs the same day versus different days and that there are times during the year where the ground is harder and creates a lot more work. Therefore, the same fees are charged that would be charged for double discing on two different occasions. She provided the Council with photographs taken by inspectors and contractors. The photographs depict a significant threat to mobile homes and vehicles. When the contractor went to the site, the photos show that some work was done but that one entire site had not been abated. Therefore, the County's contractor performed the abatement work.

Council Member Sellers felt that the Fire Marshal's office should instruct residents as to the proper abatement procedures. This would result in reducing the multiple inspections and discing. He inquired what mechanisms/processes are in place to inform property owners of the correct and preferred way of discing so that they can perform their own discing if they chose to do so?

Ms. Saunders responded that when the Fire Marshal's office sends out the letters at the beginning of the year, property owners are advised of the requirements and that individuals are encouraged to call the inspectors to discuss requirements. The inspectors conduct several site visits and respond to questions. She indicated that the goal of the program is voluntary compliance.

Ms. Saunders said that this is the first opportunity she has had to speak with Mr. Ward. She said that the issue of notifying property owners is one that her office deals with on a regular bases as properties change hands often. She did not know why it has taken since 1999 for the Assessor's Office to update the information in the data base. She prepares the list by having the Information Assistance Division interfaced with the Assessor's office to make sure that the information is as correct as possible when the letters are sent out. There is sometimes a three-month lag before records change. The Health and Safety Codes gives her office the authority and the rules to conduct the program. The Codes specify that she has to use the address and the name of the property owner that is on the Assessor's Tax Role. She did not know that the property had changed hands. She indicated that she would be addressing this with the Assessor's office. Regarding the weed abatement on the right of way, she said that it has been her experience that it is common for a right of way to be the responsibility of a property owner. She said that she would have to go back and look at the maps to determine Mr. Ward's property line and the area of

responsibility. She did not believe that there is much that can be done regarding Mr. Margherita's concern as it was her belief that this is a valid abatement, noting that Mr. Margherita has been on the program since 1998.

Council Member Sellers stated that the use of the word "lien" causes alarm, noting that it is used in the recommended action. He asked if there was a better phrase that can be used?

Mayor Kennedy recommended the replacement of the word "lien" with "you will be assessed for this charge on your property tax."

City Attorney Leichter said that it is technically correct to state that a lien would be placed on property. She said that staff would investigate a friendlier terminology.

Ms. Saunders informed the Council that the County Assessor's office indicates that this is a special assessment and that when a property owner does not pay their taxes on time, then it becomes a lien.

In response to Mr. Margherita's question, Ms. Dile indicated that there are 126 Morgan Hill properties on the list. After sending out this letter, City staff heard back from approximately 12 residents, some expressing concern and confusion while a few are in attendance this evening. She indicated that further investigation would be required for Mr. Ow's and Mr. Ward's concerns.

Ms. Saunders said that an inspector spoke with Mr. Margherita on July 24, thus the photos presented this evening to show the work that has been completed. She is confident that the inspectors ordered the abatement that should have been ordered and that the work completed was justified.

Mr. Margherita stated that he was confused about the program and the list. It was his belief that this is a cautionary list where there may be a potential hazard. He noted that the Fire Marshal's office has not abated his property for 3 or 4 years. If he is on the list, he inquired why abatements have not been performed by the County contractor's? He said that it would not take more than 20 minutes to disc his property with the contractor's rig. He did not understand why the charge would be the same to perform the work twice on the same day when the contractor is already on the property, not transporting equipment twice. He expressed concern with the pictures circulated. He said that one of the pictures was taken of his property in March before he abated it. He felt that he should be removed from the list as he takes care of his property on an annual basis.

Ms. Saunders said that there are a lot of individuals who do not understand the program. She indicated that properties are added to the list in a variety of ways: 1) representatives from the City turn in properties as complaints, 2) a private citizen can report property, and 3) fire personnel submit the property. She stated that she did not know how Mr. Margherita originally was added to the list. She stated that records were not kept for years prior to 1999. However, records are now being kept to determine why a parcel was added to the program. Properties are inspected before being added to the list. She said that property owners are kept in the program for three years to make sure that property is maintained. If property is maintained for three years, property owners are removed from the list. If there is a late abatement, the property is kept on the list for another year. She informed the Council that some people choose to have the Fire Marshal's office perform the work and therefore are on the list by choice.

Council Member Sellers said that this is a difficult issue because it is the Council's responsibility to ensure the safety of the community. He said that it was enlightening to hear how severe conditions can be and how much more dangerous it is in Morgan Hill versus other parts in the county. He would prefer to have property owners abate the fire hazard themselves. Given the fact that the Council can't go back after this evening, it is in a position where it has to proceed with the action this evening. He recommended that the fourth "whereas" in the resolution be amended to change the word "lien" to "special assessment." He encouraged the Fire Marshal's Office to go back and look at the properties that are in question. He also recommended that the Fire Marshal's office go back three years on Mr. Margherita's property to see why his property was not dropped this year. Also, to advise the City what recourse the Council has in addition to a private citizen. He noted that of the 126 properties on the list, the vast majority are not residents of Morgan Hill. He said that a lot of individuals whom own lands do not live in Morgan Hill. A concern with this is that it creates a high degree of hazardous situations by individuals who do not reside in Morgan Hill.

Action: *Council Member Sellers made a motion, seconded by Council Member Tate, to **Adopt** Resolution 5605, Ordering the Final Report on the 2002 Hazardous Vegetation Program be Transmitted to the County Assessor's Office and That Special Assessment Be Posted Against the Properties on the Report, amending the fourth whereas to replace the word "lien" with "special assessment." 2) Staff to **return** with a response to the questions/issues raised.*

Council Member Tate expressed concern with the process. It was his belief that the public hearing is the appeal before the Council. If the Council was not the appeal board, he questioned why it was holding a public hearing or its purpose? As an appeal board, he felt that the Council had three appeals to consider this evening and that the Council had no evidence to consider on two of the appeals. He asked how the Council can judge appeals when evidence is not presented. He did not believe the process works toward this regard. Regarding the third appeal, he felt that the Council has considered one side versus the other. Pictures were shown but noted that there was no evidence on the sequence of how long it was from when the pictures were taken to when the County abated the property and whether someone came in and performed abatement in between. He indicated that he was not comfortable with the process and recommended that it be improved.

Mayor Pro Tempore Carr concurred with Council Member Tate's comments because he did not know how to judge the three concerns raised this evening. He noted that the contractor performed the discing work the same day the pictures were taken.

Ms. Saunders clarified the dates the pictures were taken and the date of abatement. She said that it is the property owner's responsibility to keep property abated throughout the fire season. From March 1 on, properties need to be abated. She indicated that property owners are encouraged to contact the Fire Marshall's office/inspectors to find out the proper way to abate weeds. She said that public education is a big part of what her office does.

Ms. Dile said that staff feels that the process needs revision and that staff will be working with the Fire Marshal's office toward this end in September in order to streamline the process and to make it clear to owners what their responsibilities are and the timeline for responsibilities. Staff felt that the Fire Marshal's Office met their obligations in notifying property owners of the best information they had and that they

have followed up in a timely manner. She requested that the Council adopt the list this evening. She was confident that Ms. Saunders would be following up with the two remaining residents. She is hopeful that something can be resolved and that they can be removed from the list.

Mr. Margherita shared a few sentences from the letter received from the Fire Marshal's Office. The letter indicates that on March 1, the first discing may begin on properties that will accommodate a disc and in May, a second discing may begin. He noted that Ms. Saunders indicates that weeds had to be abated by March 1 while the letter states that discing may begin on March 1. He asked why a property owner would disc their property during the winter/spring months. He requested that the property owners in attendance be stricken from the tax assessment this evening.

Vote: *The motion carried 4-0-1 with Council Member Chang abstaining.*

Mayor Kennedy indicated that the information provided by the County Fire Marshall is such that they are doing their best to get information to property owners. He suggested that Mr. Margherita meet with Ms. Saunders further this evening.

Council Member Chang resumed her seat on the dais.

24. ADOPT RESOLUTION SUBMITTING A MEASURE TO THE VOTERS AT THE NOVEMBER 5, 2002, ELECTION, SEEKING VOTER VALIDATION OF THE CITY'S EXISTING TRANSIENT OCCUPANCY TAX RATE; AND ADOPT RESOLUTION REGARDING REBUTTAL ARGUMENTS ON MUNICIPAL BALLOT MEASURES – Resolution Nos. 5606 and 5607

City Attorney Leichter presented the staff report.

Council Member Sellers referred to Resolution No. 5606, Section 3.c. and 3.d., noting that they both reference "the following Council Members." He stated that the resolution does not specifically identify the Council Members who would prepare written arguments for or against the measure.

City Attorney Leichter indicated that it would be within the Council's discretion to appoint two members to file written arguments in favor of the measure under section 3.c. and to appoint council members to file written arguments if the Council so chose. She indicated that both sections are voluntary.

Council Member Sellers recommended that the Council discuss which Council Members would prepare the arguments as three Council Members are up for re-election. He felt that it was important to have support of the Resolution and that it may be possible to have all Council Members supporting the ballot measure. He stated that he would support signing the ballot measure in support if the entire Council would be signing but would not want to be one of the signatories if only two council members were going to sign the ballot measure argument in order to not confuse voters as he is up for re-election.

Mayor Kennedy stated his support of placing the Transient Occupancy Tax on the ballot, noting that it was approved by the Council approximately five-years ago. He said that there was interpretation of a proposition that recently caused a change in this tax.

Council Member Tate stated that he views this action as an administrative correction where the City was given a situation that it assumed to be correct. He wanted to make sure that the City is correct in moving forward with the tax.

Mayor Pro Tempore Carr stated his support of placing the tax on the ballot measure as he felt that the City approved the tax correctly, and that the court changed the way taxes are implemented. He felt that the City was moving to make the collection of the tax right. He noted that the City is not seeking a tax increase, but asking for the existing rate to remain the same. He felt that the transient occupancy tax was an important part of the City's budget, one that individuals need to understand. In the tough economic and budget times that the City has, even one percent is an important part of the City's budget.

Actions: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Adopted** Resolution No. 5606, Submitting a Measure to the Voters at the Municipal Election of November 5, 2002, Seeking Voter Validation of the City's Existing Transient Occupancy Tax, amending Section 3.c. to allow all council members to sign written argument in favor of this measure and deleting Section 3.d.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Adopted** Resolution No. 5607, Authorizing Filing of Rebuttal Arguments Regarding Measures Submitted at Municipal Elections.*

City Attorney Leichter noted that the due date for arguments to the Registrar of Voters is August 14, 2002. Therefore, the Council Member(s) who will be writing the arguments need to move forward.

Mayor Kennedy indicated that he and Council Member Tate would prepare that ballot argument in support of the ballot measure.

25. APPOINTMENT TO THE BOARD OF DIRECTORS OF THE MORGAN HILL DOWNTOWN ASSOCIATION

Mayor Kennedy noted that Council Member Sellers serves on the interim Board of Directors for the Morgan Hill Downtown Association. He inquired if his position would continue after the appointment and whether the Council needed to appoint him if the Council wanted him to be the City's representative?

Council Member Sellers stated that he was serving as a regular voting interim board member. He said that the bylaws stipulate a City and Chamber of Commerce representative. These representatives would only vote in the event of a tie. Otherwise, the representatives would be full-fledged board members and participate on the Board. He indicated that staff has also been active and attending meetings on a regular basis. He stated that he would attend Board meetings whether or not he was the City's representative.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** Mayor Kennedy's appointment of Council Member Sellers to serve as "City Liaison" Board Member to the Morgan Hill Downtown Association.*

26. DESIGNATE VOTING DELEGATE TO THE LEAGUE OF CALIFORNIA CITIES' ANNUAL CONFERENCE AND CONSIDERATION OF CANCELLATION OF OCTOBER 2, 2002 CITY COUNCIL MEETING

Mayor Pro Tempore Carr and Council Member Chang indicated that it would be likely that they would not be attending the annual Conference.

Council Member Sellers and Tate and Mayor Kennedy indicated that they plan to attend the annual League of California Cities Conference.

Council Member Sellers recommended that Council Member Tate be the primary voting delegate and indicated his willingness to serve as the alternate voting member.

Actions: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0): 1) **Approved** Mayor Kennedy's appointment of Council Member Tate as the Voting Delegate and Council Member Sellers as the Alternate Voting Delegate to the League of California Cities Annual Conference and 2) **Directed** the City Clerk to Complete the Voting Delegate Form and **Forward** Said Form to the League of California Cities.*

Mayor Kennedy stated his preference of keeping a meeting near October 2 as he is scheduled to leave to visit Italy on October 9.

Council Member Sellers suggested that the Council retain its October 2 meeting and that the Council leave for the Conference on October 3, requesting that staff keep the agenda light.

Council Member Chang and Mayor Kennedy concurred with Council Member Seller's suggestion.

Mayor Kennedy stated that it was his intention to attend the formal Sister City signing ceremony in San Casciano. He indicated that he would be out of country from October 9 - 26.

Action: *It was the consensus of the City Council to **Retain** their October 2, 2002 City Council Meeting schedule, keeping the agenda light for this particular meeting.*

27. COUNCIL VISITS TO RECREATION CENTERS FOR PROGRAMMING AND FACILITY COMPARISONS

Recreation Manager Spier presented the staff report. She indicated that she would like to have council members visit indoor community recreation center facilities in Colorado in order to incorporate any new ideas into the City's design. She recommended that the trip be scheduled for August. She requested Council indication as to who would be interested in taking this tour.

Council Member Sellers stated that he was in Denver last month and visited an aquatic center. Until you see a facility in action, it is hard to see how things fit together. He felt that it would be worthwhile to take a trip. He inquired why staff selected Colorado as the state to visit?

Ms. Spier responded that there are 22 centers in the proximity of Denver, Colorado. She said that each community has a self-sufficient center. She further stated that they are able to allocate a sales tax of 1% and that recreation is their number one priority. She said that citizens of Colorado utilize and love their centers.

Council Member Sellers noted that it appears that all council members are interested in traveling to Colorado in order to visit indoor community recreation centers. He recommended that staff schedule the tour in late August.

Actions: *It was the consensus of the City Council to **direct** staff to schedule a tour with all Council Members; touring options being Friday, Saturday, Sunday; Saturday, Sunday, Monday, or Sunday, Monday, Tuesday.*

28. COMMUNITY AND CULTURAL CENTER GRAND OPENING CELEBRATION WEEK

Recreation Manager Spier presented the staff report, indicating that the grand opening week celebration would be held the second week of December. She indicated that staff would like to start planning the grand opening celebration activities, noting that a month or so ago, the Council recommended that a community committee be put together to help the City with the activities. She requested that the Council appoint a Council Member to chair this committee. She inquired if there were any individuals that the Council felt would be well represented on this Committee.

Council Member Chang felt that Mayor Kennedy should be chairing this committee.

Council Member Tate indicated that there are only two individuals on the Council that are assured of being on the Council in December.

Council Member Sellers felt that whoever was appointed as chair, they would still continue as chairman, if not re-elected.

Mayor Kennedy stated that every Council member is excited about the grand opening celebration and what it means. He felt that the event should be one that brings the entire community together and that there be an opportunity for all Council members to participate in the celebration in some way. He indicated that Council Member Sellers has expressed an interest in chairing this committee and suggested that the process be put together in order to have an outstanding celebration. Other thoughts were that there be subcommittees of Council Members or individual Council members take on certain roles.

Council Member Tate recommended that the Council take advantage of a Council member volunteer.

Council Member Chang recommended that all Council members co chair the grand opening activities and that each Council member oversee a different area.

Council Member Tate felt that the planning and the liaison to the community committee should be one central focal point.

Mayor Pro Tempore Carr noted that the committee put together by staff for the ground breaking ceremony did a great job and that there were roles for each Council member. He felt that there would also be roles for each Council member for the grand opening ceremonies. He did not believe that all council members should be involved in the planning process in order to avoid calling special meetings of the Council. He felt that it made sense for one Council member to chair this committee and that each Council member would play a role in the week long activities. He stated his support of appointing Council Member Sellers serving as Chairman to the committee, if he is interested.

Mayor Kennedy recommended that the Council designate Council Member Sellers to chair the committee with the understanding that each Council member wants to be a part of the week long activities.

Council Member Sellers said that he would make sure that each Council member plays a significant role in the week long celebration.

Council Member Chang inquired as to the budget for the celebration week? She asked if community funds would be used for the celebration?

Ms. Spier responded that there is \$10,000 allocated for the week long celebration in the Community and Cultural Center budget, noting that the one day ground breaking ceremony also had a \$10,000 budget, therefore, creative resources would need to apply. She indicated that the first meeting of the committee will take place during the week of August 12-16 and that the entire Council could be invited to the first meeting when there is discussion about roles.

Council Member Sellers recommended that each Council member provide staff with suggested names of individuals who should serve on this committee.

Council Member Tate recommended that Bill Weber and Laura Brunton be included as committee members.

Mayor Pro Tempore Carr recommended that community and cultural center partners be invited to serve on this committee such as South Valley Civic Theater and Gavilan College, and others who would be interested on the cultural side of the center.

Mayor Kennedy recommended that School Board Members/staff be invited to be a part of this committee. He suggested that staff obtain a list of corporations and businesses from the Chamber of Commerce.

Council Member Tate recommended that Morgan Hill Times include an article in the newspaper, inviting individuals interested in serving on the committee to contact city staff.

Actions: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** the Mayor's appointment of Council Member Sellers to Act as Chair of the Community and Cultural Center Grand Opening Celebration Week Committee.*

Action: *It was the consensus of the City Council to **direct** staff to schedule a kick off planning*

meeting as soon as possible and that all Council members would attend this initial meeting.

Action: *It was the consensus of the City Council that each Council Member **would provide** staff with a list of recommended individuals for the Volunteer Citizen Planning Committee.*

29. COMMUNITY AND CULTURAL CENTER AND PLAYHOUSE FACILITY USE AND RESERVATION POLICIES

Recreation Manager Spier presented the staff report and indicated that the proposed rental rates are assumptions that affect cost recovery for all pieces of the community and cultural center. She indicated that staff would be incorporating Council comments in the draft policies for the community and cultural center and playhouse. Regarding community access, staff is requesting Council to look at the prime time slots (e.g., Friday, Saturday and Sunday). She indicated that staff would like to reserve facilities for those users who are willing to pay full cost recovery. She informed the Council that staff has had a request to reserve the multi purpose room every Friday night for a specific purpose that would eliminate the ability to use the multi purpose room for any other purpose. The user is willing to discuss rates and fees, noting that the user has not yet seen the proposed rate and fee structure, and therefore, was not sure if the fees were within range. Staff expressed concern with locking up the rooms without the ability to market and get other types of users. She indicated that staff was encouraging this group to look at another night. However, should the Council believe that it was acceptable to release prime time slots, staff would do so. She clarified that staff is recommending that not for profit groups be required to pay full rates for prime time use of the facility.

Mayor Kennedy said that he would hate to see prime time facilities booked for the entire year as this ties up one of the most valuable features of the facility for the entire year.

Council Member Tate would support tying up the facility if the user agrees to pay prime time rates.

Council Member Chang recommended that consideration be given to low income citizens so that the facility can be opened to all individuals, not only to those who can afford to pay full rates. She understood that cost recovery is an important issue but questioned if this is the only goal that the Council has.

Mayor Kennedy inquired if staff has compared proposed charges to other facilities and whether the rates are consistent with other facilities?

Ms. Spier indicated that the proposed rates are lower than what other facilities charge. Staff looked at Coyote Creek and San Juan Oaks, some of the larger golf course facilities, including the Elks Lodge. She stated that the rates being proposed are not lower than the rates charged by the Grange or the Buddhist Temple Center.

Mayor Pro Tempore Carr noted that the kitchen can be used independently of the multi purpose room.

Mayor Kennedy would support moving slow in terms of long term commitments. He recommended that reservations be accepted for rooms up to three months or so versus the entire year to see how it works.

Ms. Spier informed the Council that staff was looking to offer reservation of rooms on non prime time periods, keeping prime nights open.

Council Member Sellers felt that the Council needs to be cautious when trying to reduce fees. He felt that the City would be accommodating a wide variety of the community. If the Council cuts fees further, the City would not end up with the higher, better end user nor end up close to cost recovery. This would result in cutting wholesale at the other end and cutting back on staff. He felt that staff did a great job and felt that the use/rates need to be monitored closely. He was anxious about cutting the rates any further until the facility gets underway. He did not believe that it was an excess burden for the significance of the facility. He did not believe that the City should short change itself. If the City does not recover enough, the City would be hurting the individuals who would need the facility the most. Regarding the scheduling priorities, he inquired whether the non profit organizations were separate from Morgan Hill organizations (group B)?

Ms. Spier indicated that staff has provided four group categories. She said that group B is the paying customer and would receive second booking while trying to accommodate the Morgan Hill non profit organizations.

Council Member Sellers wanted to make sure that non profits have options.

Mayor Kennedy felt that this is a great starting point and would support moving forward with the recommended rates with the understanding that they would need to be monitored to see what works and what does not work.

Mayor Pro Tempore Carr referred to the playhouse and requested a definition between private meetings and commercial meetings.

Ms. Spier clarified that private meetings are those of organizations and groups who use the facility where commercial meetings are those where a realtor comes in and has a conference. She addressed the reasoning for the difference in cost for technical rehearsals and non technical rehearsals.

Council Member Sellers recommended that there be a bigger charge difference between the non technical and technical rehearsals versus the \$5 difference being recommended by staff.

Mayor Pro Tempore Carr inquired if fees are decided by the users for additional fees and services or can the City automatically tack on janitorial fees when a group comes in that does not clean up the facility?

Ms. Spier indicated that a security deposit would be charged and that janitorial fees would be charged, if necessary.

Mayor Pro Tempore Carr inquired if the City would determine when a security guard is needed and if a security guard would automatically be needed when there will be alcohol on site?

Ms. Spier responded that it would be up to the police department to determine if security would be needed as part of a special event.

Council Member Chang inquired if there was another way to achieve full cost recovery other than the rates being proposed such as a bond or tax?

Finance Director Dilles said that a special tax would be a tax that is dedicated to a specific purpose and would require two-thirds voter approval. A general tax could be used for any purpose and would only require a majority vote. This tax can be used as a subsidy for the operation of the community and cultural center as part of the general fund. He said that there are other revenue sources such as a Mello Roos special tax or a parcel tax that could be levied against property owners and can be used for operations. He said that staff would need to conduct additional research to make sure that there are no additional strings attached to these types of tax monies for operations. Beyond this, there are traditional taxes that the City collects such as the Transient Occupancy Tax (TOT), business taxes, and document transfer taxes. There is also a possibility of implementing an admissions tax. However, he did not believe that this would generate a lot of funds. Also, there are fundraising and concession possibilities. He indicated that any tax proposed would require voter approval.

Actions: *Council Member Sellers made a motion, seconded by Council Member Tate, to **Approve** Resolution to Incorporate the Proposed Facility Use Rental Fees and Reservation Policies for the Community and Cultural Center and Playhouse.*

Mayor Pro Tempore Carr noted that there were several policy issue questions raised in the staff report and felt that the Council has addressed most of them. He stated that the Council has not addressed the private concessionaires and caterers. He noted that staff has asked whether the City should pursue market rate concession agreements. He requested that staff explain this issue.

Ms. Spier said that with the Playhouse, there is an opportunity in the agreement with South Valley Civic Theater, that the City control the concessionaire for this group. The City would hold the contract and bid out the opportunity to have a concessionaire operate out of the theater and amphitheater area. Staff would like to know if this is the type of concession that the Council would like staff to pursue. Staff was looking at a preferred caterer list for all potential users of the banquet facility. As an alternative, one caterer could operate the kitchen.

Council Member Sellers stated that he would support market rate concession agreements to a limited degree. He felt that there would be a gray area as there would be food concessionaires and clothing concessionaires. He did not see City involvement in specialty ware concessions. He said that concessionaire would be a point of negotiations.

Mayor Kennedy stated that he would like to have staff explore possibilities to see if there are good opportunities for the City.

Mayor Pro Tempore Carr said that he would not want to see the City pursue a market rate concession agreement. He noted that South Valley Civic Theater relies on the limited income that comes from concession sells and that other groups would rely on concessions to help pay their rental rates at these facilities. He did not believe that an organization would sign an exclusive contract agreement.

Mayor Kennedy felt that this may be true for the playhouse but not for the remainder of the facility.

Council Member Sellers felt that the value for exclusiveness is that there is an entity in place. Therefore, when you have an event with a need for concession, an entity is in place that can provide the concession. He agreed that the City should not force entities to have exclusive concessions.

Council Member Tate supported the idea of being flexible and being able to adapt to circumstances. He did not support having an exclusive caterer type of arrangement.

Council Member Sellers felt that emphasis should be given to local vendors.

Council Member Chang felt that vendors should be at staff discretion.

Council Member Tate felt that the Council has reaction issues built in such as how often the Council wants to review the policies. He noted that the direction to staff is to prepare a resolution and that the resolution includes frequency of Council review.

Council Member Sellers would support incorporating a regular quarterly review, initially.

Council Member Chang continued to express concern that non profits have to pay prime time rental rates.

Council Member Tate indicated that the Council does not have an answer on how to address the rates for non profits and yet achieve full cost recovery.

Mayor Pro Tempore Carr said that all Council members have concerns regarding rates for non profit organizations. If a non profit cannot afford to pay the fees, they consult with the Grange, the Buddhist Temple, the School District or other facilities to see if they can negotiate a better user rate.

Mayor Kennedy noted that the Council would have another opportunity to review the process and the rates on August 21, 2002.

Vote: *The motion carried unanimously (5-0).*

Council Member Chang inquired if it would be possible to bring the portion of the park fees relating to low income individuals for Council discussion?

Mayor Kennedy requested that staff look into Council Member Chang's concern.

30. APPOINTMENT TO FILL ONE VACANCY ON THE PARKS AND RECREATION COMMISSION

Council Services and Records Manager Torrez provided the Council ballots and requested that the Council select their first and second choice candidates to serve on the Parks and Recreation Commission.

Mayor Pro Tempore Carr indicated that approximately one year ago, he and Council Member Chang interviewed as a Council subcommittee Parks and Recreation Commissioner applicants. The subcommittee came back with a recommendation that an alternate be appointed. In the case where

someone steps off the Commission, the Council would be able to appoint the alternate and not to go through the interview process to replace a commissioner.

Recreation Manager Spier indicated that Council did have a discussion on the feasibility of appointing an alternate to the Parks and Recreation. Based on staff's recommendation, the Council did not appoint an alternate because the alternate expressed frustration with being an alternate.

Mayor Pro Tempore Carr said that in this case, had an alternate been appointed the night that appointments were made, the alternate would have been called by staff to advise them that an opening existed and would get the appointment without having to go through the interview process again.

Mayor Pro Tempore Carr and Council Member Chang supported appointing an alternate member who would not be required to attend the meetings.

Council Member Sellers indicated that the Council could stipulate that in the event that a Parks and Recreation Commission member is unable to serve out their term, the alternate would be provided the first opportunity to fulfill the term.

Action: *On a motion by Mayor Pro Tempore/Agency Member Carr and seconded by Council Member/Vice-chairwoman Chang, the City Council/Redevelopment Agency unanimously (5-0) **Agreed** to extend the meeting beyond 11:00 p.m.*

Actions: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council unanimously (5-0) **Ratified** the Mayor's appointment of Marilyn Librers to fill a vacancy on the Parks and Recreation Commission with a term expiring May 1, 2004. Robert Graham was appointed as the designated individual to be next appointed to the Parks and Recreation Commission.*

At the request of Council Services and Records Manager Torrez, the Council clarified that should there be a vacancy on the Parks and Recreation between now and the next term to expire, Mr. Graham would be given the opportunity to be appointed to serve the term without having to return to Council for appointment. However, when the next terms of Commissioners expire, Mr. Graham would be invited to apply and interview.

City Council and Redevelopment Agency Action

OTHER BUSINESS:

31. COMMUNITY AND CULTURAL CENTER

Director of Community Development Bischoff presented the staff report. He indicated that the VTA does not have an alternate design for the transit bus shelters. Staff would recommend that the architect for the project design the shelter. As an alternative, there are a number of companies that manufacture bus shelters.

Transit Shelter

Actions: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) **Appropriated** Up To \$30,000 As Required From the Redevelopment Agency Unreserved Fund Balance (Fund 317) for the purpose of installing an upgraded Transit Shelter.*

Mayor Pro Tempore/Agency Member Carr recommended that the design not block important features of the Community and Cultural Center.

Council/Agency Member Sellers recommended that the shelter blend in with the rest of the facility.

Vote: *The Motion carried unanimously (5-0).*

Upgraded Identification Signs

Mayor/Chairman Kennedy felt that the two main signs should identify the Community and Cultural Center. He felt that the "Community and Cultural Center" was the right name for the facility.

Council/Agency Member Sellers felt that if someone wanted to be involved with the facility and make a significant donation in exchange for naming rights, it might be something that the Council may wish to consider, including upgrading the signs. He inquired if a decision needs to be made soon?

Mr. Bischoff indicated that a decision needs to be made soon or that generic signs could be installed.

Council/Agency Member Tate expressed concern that the architect for the entire project knew how important the community and cultural center would be from the beginning and mislead the City by budgeting only \$10,000 when \$50,000 is the actual cost for signage. He stated that signage is part of the overall design and that the architect was paid for professional services and that his contract was amended to increase his fees because he forgot other things.

Director of Community Development Bischoff said that the Council can wait and delay installation of signs or that the Council authorize the installation of a sign on Monterey Road and delay the installation of the other sign.

Mayor/Chairman Kennedy supported finishing the project so that it looks like a finished facility. He recommended that the facility be named what it has been called all along, "Morgan Hill Community and Cultural Center" and that this name be identified in both signs.

Council Member/Vice-chairwoman Chang recommended the installation of at least one sign. She felt that the project is for the Morgan Hill community. She did not believe that a company would offer a significant amount of money to name the facility after them. She supported naming the facility Morgan Hill Community and Cultural Center as it is the community's money and the City's project.

Council/Agency Member Sellers stated that he would like to give thought to individuals/businesses who

would pay to have their names on signage for the playhouse, individual rooms, and/or the amphitheater. He inquired how much time the Council has to determine names to be incorporated into signage as he would like to give names some thought.

Mr. Bischoff said that signage needs to be ordered. He recommended that room names be selected, recognizing that the names can be changed.

Mayor Pro Tempore/Agency Member Carr recommended that this item be continued to August 21 as he would like to give thought to some of the suggested names. He felt that the names were good suggestions. He recommended that the Council find a way to tie the fact that this is the former site of the Morgan Hill School. With respect to the recommended \$50,000 for the construction of monument signs, he noted that the Council has indicated that it would be looking for private funding and funding opportunities for the facility all along. He further recommended that the Council move forward with the recommendation of a maximum amount that it is willing to spend. He supported a monument sign for the Monterey Road side and another sign at the Dunne Avenue side that would be significantly smaller in order to avoid spending the entire \$50,000. He further recommended that the Council hold off naming other aspects of the facility and not rush through the process this evening.

Mr. Bischoff advised the Council that should it hold off in the naming of the facility and rooms, the City runs a serious possibility that it would not have signs installed next to the doors of each of the rooms when the facility opens.

Council/Agency Member Tate recommended that the Council/Agency convene Friday, August 2 following the Community and Cultural tour.

Mayor/Chairman Kennedy supported moving forward with the large monument sign on Monterey Road and a smaller sign on Dunne Avenue.

Action: *On a motion by Mayor Pro Tempore/Agency Member Carr and seconded by Council/Agency Member Sellers, the City Council/Agency Commission unanimously (5-0) **Approved** a monument sign on Monterey and a smaller sign on Dunne Avenue, allocating \$30,000.*

Names for the Facility

Council/Agency Member Tate indicated that he liked a lot of the names on each list and that he would like to pick and choose among the names which are believed to be popular, not worrying about a specific theme.

Mayor/Chairman Kennedy indicated that he would also like to mix and match the names on the list. He felt that staff provided a list of good names and has identified names that he supported.

Mayor Pro Tempore/Agency Member Carr expressed concern with naming any of the rooms after something that is well known in the community. He recommended that the City identify other significant names.

Mayor/Chairman Kennedy opened the floor to public comment. Carol Holzgrafe indicated that she is speaking as a private citizen and a member of the Historical Society. She said that one of the reasons that Isola Kennedy was suggested was based on her significant contribution as a school teacher who defended a school from a mountain lion, and considered a heroin. No further comments were offered.

Acting City Manager Ashcraft informed the Council/Agency that the signs need to be ordered as soon as possible as they will need to be installed prior to occupancy.

Council/Agency Member Tate felt that Ms. Holzgrafe's argument was valid in terms of honoring individuals. If the City is to adopt a theme of naming rooms honoring individuals, he felt that the City should adopt a theme of naming the rooms after individuals. In looking at the list of names, he did not find the names to be exciting.

Council/Agency Member Sellers expressed concern that the Council/Agency is considering names for the rooms at such a late hour only to think that the Council/Agency made a mistake in the naming of the rooms 30 years from now.

Council Member/Vice-chairwoman Chang noted that the Council/Agency has identified a theme of names with the exception of the amphitheater.

In response to Council/Agency Member Sellers question, Acting City Manager Ashcraft indicated that signs would not be necessary for the Rose Garden or Amphitheater.

Mayor Pro Tempore/Chairman Carr indicated that the School District requested Historical Society input in the naming of the Barrett Elementary School. He felt that the Council/Agency could do a much better job of making signage a more inclusive/better decision versus coming up with names at a late hour. He said that rather than trying to appoint a Council subcommittee and figuring out a way to publicize and ask for comments, that the Council/Agency generally agree that the names should have historical significance. He noted that the City has a great resource in the Historical Society and recommended that the City find a way to receive their input as quickly as possible.

Mayor/Chairman Kennedy recommended that each Council member submit a recommended list of names by Friday, August 2, 2002. If a decision is not made by Friday, a decision can be made August 21.

The City Council/Agency Commission indicated their preliminary name preference as follows:

Morgan Hill Community & Cultural Center; Gavilan College Satellite Campus; Community Playhouse; Children's Pavilion; Amphitheater; Rose Garden

Individual Rooms

Large Multi-Purpose Room:	Hiram Morgan Hill Room
Octagonal Room:	El Toro Room
Dance Room:	Valley Oak Room
Fine Arts Room:	Henry Come Room
Ceramics Room:	Sycamore Room

Conference Room: Poppy Jasper Room
Multi-Purpose Meeting Room: Madrona Room or Isolda Kennedy Room

Rose Garden: Diana Murphy Rose Garden (undecided)
Amphitheater (undecided)

Council Member/Vice-chairwoman Chang stated her support of the names identified above.

Redevelopment Agency Action

OTHER BUSINESS:

32. SELECTION OF ARCHITECTURAL SERVICES FOR AQUATIC COMPLEX PHASE I

Chairman Kennedy stated that when the Agency interviewed the architect, the architectural firm expressed that they could shorten the schedule. In looking at the schedule for design, he felt that ten months is too long. He could not see a reason why it could not be completed in five months or less. He stated his support of the action but not the schedule.

Agency Member Tate noted that the recommended action states that this is " . . . at a cost not to exceed \$860,000." He wanted to underscore the fact that it is the Agency's intent that this is the maximum cost to be spent, including all proper signage, etc.

Ms. Spier indicated that she looked at the basic contract and has added a contingency of 10%. She stated that it is hard to figure out all of the unknowns, especially if there is movement on the sports side. If there are changes, staff would bring the contract back to the Council as it is specific/focused to the aquatic site.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairwoman Chang, the Redevelopment Agency unanimously (5-0) **Authorized** the Executive Director to Negotiate, Prepare and Execute a contract with ESL for the Purpose of Architectural Services for the Design and Construction of Phase One of the Aquatic Complex **at a Cost Not to Exceed \$860,000**, with the understanding that the architect is to look at a more aggressive schedule.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

No items were noted.

City Council Action and Redevelopment Agency Action

City Attorney/Agency Counsel Leichter announced the below listed closed session items, indicating that the first closed session is based on a threat of litigation contained in a letter from Karen Anderson dated May 21, 2002.

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION: CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(is) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Name of Case: Hacienda Valley Mobile Estates v. City of Morgan Hill

Case No.: 02-15986

Attendees: City Attorney, City Manager, Director of Business Assistance and Housing Services

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 11:44 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 11:57 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that no reportable action was taken on the above listed closed session items.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:58 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: August 21, 2002

REJECTION OF BIDS FOR WELL ABANDONMENT PROJECT

RECOMMENDED ACTION: Reject the single bid received on July 31, 2002 for the Well Abandonment Project and authorize staff to rebid the project.

Agenda Item # 16

Prepared By:

Junior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY:

This project is for well abandonment of three very old wells as required by SCVWD. Two are very old agricultural wells never used by the City, but now on City owned property. The third is an old city well that was abandoned due to its age; the well is next to the Dunne Avenue fire station.

The bid opening was held on July 31, 2002 and the bid received is as listed below:

Maggiora Bros. Drilling Inc.

\$33,175

The low bidder, Maggiora Bros. Drilling Inc., provided a quotation that was approximately \$10,000 above the engineer's estimate. Staff will re-bid the project in hopes of receiving bids near our engineer's estimate and return to City Council with a recommended award at the September 18th Council meeting.

FISCAL IMPACT: None



CITY COUNCIL MEETING STAFF REPORT

MEETING DATE: AUGUST 21, 2002

**TITLE: ACCEPTANCE OF DONATIONS FOR GALVAN PARK
BASEBALL FIELD IMPROVEMENTS**

RECOMMENDED ACTION: 1) Accept Donation by Silicon Valley Baseball of Improvements for the Galvan Park Baseball Field 2) Present a Certificate acknowledging the Donation.

EXECUTIVE SUMMARY: In January of 2002 Dave McPherson of the Silicon Valley Baseball Association approached the Public works and Recreation Departments expressing interest in reserving the baseball field at Galvan Park for baseball play and a willingness to provide improvements to field. This organization represents 120 youths ages 9-14 comprising 10 teams.

Recreation staff worked with Mr. McPherson to reserve the field per the City's field reservation policy. Public Works staff then coordinated with Mr. McPherson to review and oversee improvements to the field. Among the improvements was the placement of new infield mix and grading, construction of dug out concrete slabs, redefining the infield and warning track grass edges, and the repair and painting of backstop boards. The cost for these improvements including materials and labor equal \$5,756.

In accordance with Administrative Policy V 009 "Donation Policy" donations with estimated values of \$5,000 or more must be formally accepted by City Council. In accordance with this policy the Director of Public Works has evaluated this donation and has found it acceptable.

Staff has provided a certificate acknowledging the generous donation made by the Silicon Valley Baseball Organization and wishes to thank them for helping to improve the City's Park System.

FISCAL IMPACT: None

Agenda Item # 17

Prepared By:

**Deputy Director Public
Works/ Operations**

Approved By:

Director Public Works

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: August 21, 2002

ANNEXATION APPLICATION, ANX-00-02: COCHRANE - LUPINE

RECOMMENDED ACTION(S):

1. Open/close Public Hearing.
2. Adopt Resolution for Annexation.

EXECUTIVE SUMMARY:

This application is a request to annex two parcels totaling 55 acres in size (46 ac. and 9 ac. each) into the City of Morgan Hill. The properties are located at the southeast corner of Cochrane Road and Peet Road. The 55-acre site is currently surrounded on three sides by the City of Morgan Hill. Therefore, inclusion of the parcels into the City limits would represent a logical adjustment of the City's boundary. In addition, under the terms of the 1984 Cochrane Road Assessment District (CRAD) court judgement, the City agreed to accept and process, to an approval, applications for annexation and prezone within the CRAD area. The subject site is located within the City's Urban Service Boundary, and in February 2001, was prezoned R-1(12,000) Single-family Low Density Residential.

Existing water and sewer lines are available within the site vicinity, and are of sufficient size to service future development of the site. The subject site is also within the established response time standard for fire service. Considering the proposed annexation represents a logical adjustment of the City's boundary, and City infrastructure and services to the area are available, staff supports the annexation.

On December 12, 2000, the Commission voted unanimously (7-0) to recommend approval of the annexation. The annexation was not forwarded to the Council until the annexation map and legal description was certified by the County Surveyor's Office and County Assessor's Office, and until all code violations had been removed. Since that time, certification of the map and legal description was received by the City, and all identified code violations have been remedied. The applicant has also entered into a Pre-Annexation Agreement with the City. A copy of the Commission's December 12, 2000 staff report and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 18

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT
MEETING DATE: August 21, 2002

APPEAL OF SUBDIVISION APPLICATION SD 01-04:
McLAUGHLIN-JONES

RECOMMENDED ACTION(S):

1. Open Public Hearing
2. Continue to the September 4, 2002 meeting.

EXECUTIVE SUMMARY:

On April 17, 2002, the City Council considered a zoning and subdivision request for a proposed 9-lot development on a 2.16 acre site located on the east side of McLaughlin Ave., north of E. Central Ave. west of the railroad tracks. The Council denied the zoning application (4-0-1 vote). At the same meeting the Council took no action on the subdivision request, thereby concurring with the Planning Commission's decision to deny the corresponding subdivision map. The applicant is appealing the Planning Commission's denial of the subdivision map.

This item was originally scheduled for Council review at its June 26 meeting. It was continued to the July 17th and August 21st meetings at the applicant's request to allow additional time for staff and the applicant to meet to determine if an alternative to the appeal is possible. Staff and the applicant have met and continue to explore options. It is recommended that the Council open the hearing on this appeal and continue the matter to the September 4, 2002 City Council meeting.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 19

Prepared By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: August 21, 2002

DEVELOPMENT AGREEMENT AMENDMENT DA 02-03: HALE-GLENROCK/SHEA

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY:

The applicant is requesting approval of development agreement that will cover the development commitments for an 11-lot portion of the 68-acre Capriano development located on the south side of Tilton Ave., east of Hale Ave. and west of Monterey Rd.

In May 2002, the Planning Commission awarded 11 allocations for FY 2003-2004 which will be the beginning of Phase IV of the project. Phases IV will cover a 3.25 acre area within the overall 68-acre project site.

In accordance with established City Council policy, all residential projects awarded building allotments through the Residential Development Control System must secure City Council approval of a Development Agreement. The purpose of this agreement is: to secure commitments made during the Residential Development Control System process, and to establish a development schedule and mechanism for monitoring project success. Special attention is directed to Paragraph 14 of the Agreement which addresses the developer commitments made during the 2001 Residential Development Control System process. Exhibit "B" of the agreement sets forth the due dates for actions prior to construction.

This application was reviewed by the Planning Commission at its July 30, 2002, meeting. The Commission voted 6-1, approving the request. The Planning Commission staff report and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 20

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO. 1582, NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING OF A DEVELOPMENT
AGREEMENT, DA-02-03: HALE-GLENROCK/SHEA FOR
APPLICATION MP 01-04: TILTON-GLENROCK (APN's 764-
09-026 & 027)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 11 building allotments were awarded to application MP 01-04: Tilton-Glenrock for fiscal year 2003-2004; and

<u>Project</u>	<u>Total Dwelling Units</u>
MP 01-04: Tilton-Glenrock	11 building allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30)

days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at a special meeting of the City Council of the City of Morgan Hill held on the 21st Day of August, 2002 and was finally adopted at a regular meeting of said Council on the 4th Day of September, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

☪ CERTIFICATE OF THE CITY CLERK ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1582, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 4th Day of September, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk